

AMENDED IN ASSEMBLY MARCH 26, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 730

Introduced by Assembly Member De La Torre

February 26, 2009

An act to amend ~~Section~~ *Sections 394 and 10400* of the Insurance Code, relating to health insurance.

LEGISLATIVE COUNSEL'S DIGEST

AB 730, as amended, De La Torre. Health insurance: unlawful ~~rescission~~ *postclaims underwriting* of policy: penalties.

Existing law provides for the ~~licensing and~~ regulation of health insurers by the *Department of Insurance Commissioner*. Existing law provides that the Insurance Commissioner may approve insurance policies and associated materials in languages other than English, if certain conditions are met, including that the English version is the official version. Under existing law, the commissioner is required to promulgate regulations requiring every health insurer to provide insureds with appropriate access to translated written materials and oral interpretation services in obtaining covered benefits under individual and group policies of health insurance, as specified.

This bill would specify that individual and group policies of health insurance are subject to the latter requirements and not the former provisions.

Existing law prohibits a health insurer from engaging in the practice of postclaims underwriting, which is defined to mean the rescinding, canceling, or limiting of a health insurance policy or certificate due to the insurer's failure to complete medical underwriting and resolve all reasonable questions arising from written information submitted on or

with an insurance application. Existing law provides that any person willfully violating various provisions governing disability insurance policies, including health insurance policies, or orders of the commissioner in that regard, shall forfeit to the state a sum not to exceed \$118 for each violation.

This bill would provide that a health insurer that unlawfully ~~reissues~~ *engages in the postclaims underwriting of* a health insurance policy shall be liable to the state for a civil penalty to be fixed by the commissioner in an amount not to exceed \$5,000, except that if the insurer knew, or had reason to know, that the act of ~~reissuance~~ *postclaims underwriting* was unlawful, the civil penalty shall be fixed by the commissioner in an amount not to exceed \$10,000 for each act or violation. The bill would make other related changes.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 394 of the Insurance Code is amended to
2 read:
3 394. (a) ~~The~~ *Except as provided in subdivision (c), the*
4 commissioner may approve insurance policies and associated
5 materials in languages other than English if the following
6 conditions are met:
7 (1) The policyholder is given a copy of the same material in
8 English.
9 (2) The English version is the official version.
10 (3) A policyholder document in a language other than English
11 shall contain a disclosure statement in both that language and in
12 English that states that the English version is the official version
13 and the foreign language version is for informational purposes
14 only.
15 (b) An insurer that knowingly misrepresents information
16 provided in a language other than English shall be subject to Article
17 6.5 (commencing with Section 790) of Chapter 1 of Part 2.
18 (c) *Policies of health insurance, as defined by Section 106, and*
19 *associated materials in languages other than English shall not be*
20 *subject to subdivision (a) and shall instead be subject to Sections*
21 *10133.8 and 10133.9.*

1 ~~SECTION 1.~~

2 SEC. 2. Section 10400 of the Insurance Code is amended to
3 read:

4 10400. (a) Any person willfully violating any provision of this
5 chapter or order of the commissioner made in accordance therewith
6 shall be liable to the state for a civil penalty to be fixed by the
7 commissioner in an amount not to exceed one hundred eighteen
8 dollars (\$118) for each violation. The commissioner may also
9 suspend or revoke the license of an insurer or agent for any willful
10 violation in that regard.

11 (b) Notwithstanding subdivision (a), a health insurer that
12 unlawfully ~~rescinds~~ *engages in the postclaims underwriting of* a
13 health insurance policy, *as defined in Section 10384*, shall be liable
14 to the state for a civil penalty to be fixed by the commissioner, in
15 an amount not to exceed five thousand dollars (\$5,000) for each
16 ~~unlawful rescission act of postclaims underwriting~~ of a policy,
17 except that if the insurer knew, or had reason to know, that the act
18 of ~~rescission~~ *postclaims underwriting* was unlawful, the civil
19 penalty shall be fixed by the commissioner in an amount not to
20 exceed ten thousand dollars (\$10,000) for each act or violation.